

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

WANDA DURYEA, ET AL.,

Plaintiffs,

v.

AGRI STATS, INC., ET AL.,

Defendants.

Case No. 18-CV-1776 (JRT/HB)

Case No. 18-CV-2008 (JRT/HB)

Case No. 18-CV-2044 (JRT/HB)

Case No. 18-CV-2337 (JRT/HB)

Case No. 18-CV-2338 (JRT/HB)

**STIPULATION TO ACCEPT
SERVICE OF CONSOLIDATED
CLASS ACTION COMPLAINT AND
EXTEND TIME TO RESPOND TO
THE COMPLAINT**

Certain plaintiffs and defendants Agri Stats, Inc., Clemens Food Group, LLC, Hormel Foods Corporation, Indiana Packers Corporation, JBS USA, Seaboard Foods, LLC, Smithfield Foods, Inc., Triumph Foods, LLC, and Tyson Foods, Inc. (“Previously Named Defendants”) previously entered stipulations to extend time and to accept service of complaints in the related civil actions identified below (the “First Stipulations”); those stipulations were approved and corresponding orders entered by the presiding judge in each action as follows:

- a. *Duryea, et al. v. Agri Stats, Inc., et al.*, Case No. 18-CV-1776 (Dkt. 65);
- b. *Maplevale Farms, Inc. v. Agri Stats, Inc., et al.*, Case No. 18-CV-1803 (Dkt. 71);
- c. *John Gross and Company, Inc. v. Agri Stats, Inc., et al.*, Case No. 18-CV-1810 (Dkt. 57);
- d. *Sandee’s Bakery v. Agri Stats, Inc., et al.*, Case No. 18-CV-1891 (Dkt. 50);

- e. *Ferraro Foods, Inc., et al. v. Agri Stats, Inc., et al.*, Case No. 18-CV-1946 (Dkt. 45);
- f. *Litterer, et al. v. Agri Stats, Inc., et al.*, Case No. 18-CV-2008 (Dkt. 52);
- g. *Realdine, et al. v. Agri Stats, Inc., et al.*, Case No. 18-CV-2044 (Dkt.48);
- h. *Olean Wholesale Grocery Cooperative, Inc. v. Agri Stats, Inc., et al.*, Case No. 18-CV-2058 (Dkt. 39);
- i. *Bear's Restaurant Group, et al. v. Agri Stats, Inc., et al.*, Case No. 18-CV-02113 (Dkt. 44).

Following entry of the above orders, additional putative class plaintiffs filed four other actions as follows:

- a. *Jeffrey Allison v. Agri Stats, Inc., et al.*, Case No. 18-CV-2337;
- b. *Anderson, et al. v. Agri Stats, Inc., et al.*, Case No. 18-CV-2338;
- c. *Phil's BBQ, Inc. v. Agri Stats, Inc., et al.*, Case No. 18-CV-2390; and,
- d. *Joe Christiana Food Distributors, Inc. v. Agri Stats, Inc., et al.*, Case No. 18-CV-2405.

On August 17, 2018, the plaintiffs in all 13 actions ("Plaintiffs") filed three consolidated amended complaints on behalf of three putative classes of plaintiffs (collectively, the "CACs"). *See, e.g.*, Dkt. 83 in Case No. 18-CV-01803-PJS-SER (Direct Purchaser CAC); Dkt. 63 in Case No. 18-CV-01891-JRT-SER (Commercial Food Preparer CAC); Dkt. 74 in Case No. 18-CV-01776 (Indirect Purchaser CAC). Because the 13 cases had not yet been consolidated, identical amended complaints were filed in the various 13 actions—*i.e.*, the CAC on behalf of the putative Direct Purchaser Plaintiffs was filed in all of the direct purchaser actions. The CACs named the following additional defendants: The Clemens Family Corporation, Hormel Foods, LLC, Mitsubishi Corporation (Americas), JBS USA Food Company Holdings, Seaboard Corporation, Tyson Prepared Foods, Inc.

and Tyson Fresh Meats, Inc.¹ (the “Newly-Added Defendants”) (together with Previously Named Defendants, the “Defendants”). On Friday, September 7, 2018, all thirteen actions were consolidated before Chief Judge John R. Tunheim and Magistrate Judge Hildy Bowbeer.

So as to preserve both party and judicial resources, Plaintiffs and Defendants, by and through their undersigned counsel, stipulate to the following:

1. The Newly-Added Defendants agree to accept service of the CACs with which they have not been formally served, and any future related complaints, by electronic mail on the respective undersigned counsel for each Defendant.

2. All Defendants shall answer, move or otherwise respond to the CACs by October 23, 2018 (superseding the response date specified in the First Stipulations).

3. Plaintiffs and the Defendants stipulate and agree that the entry into this stipulation by the Defendants shall not constitute a waiver of (a) any jurisdictional defenses that may be available, (b) any affirmative defenses under Rule 8 of the Federal Rules of Civil Procedure or otherwise, or (c) any other statutory or common law defenses that may be available to the Defendants in this or any other action. The Defendants expressly reserve their rights to raise any such defenses (or any other defense) in response to either the CACs or any amended complaint that may be filed relating to these actions or others subsequently filed and served, if any.

¹ Tyson Prepared Foods, Inc. and Tyson Fresh Meats, Inc. were named in certain indirect purchasers’ prior complaints. Thus, both entities are Newly-Added Defendants only with respect to the Direct Purchasers CAC and the Commercial Food Preparers CAC.

4. Defendants agree to accept service of process for the CACs by ECF, or by email sent to the below-identified counsel in the event the ECF filing notice for the CACs does not identify such counsel as a recipient of the ECF notice.

5. Neither the parties nor the Court will be prejudiced by an extension of the responsive pleading deadline, because there are no pending pre-trial or other deadlines in these actions.

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IT SO STIPULATED.

Dated: September 10, 2018

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